bronchus cancer, a colorectal cancer, a prostate cancer, a breast cancer, a pancreas cancer, a stomach cancer, an ovarian cancer, a urinary bladder cancer, a brain or central nervous system cancer, a peripheral nervous system cancer, an esophageal cancer, a cervical cancer, a melanoma, a uterine or endometrial cancer, a cancer of the oral cavity or pharynx, a liver cancer, a kidney cancer, a biliary tract cancer, a small bowel or appendix cancer, a salivary gland cancer, a thyroid gland cancer, an [a] adrenal gland cancer, an osteosarcoma, a chondrosarcoma, a liposarcoma, a testes cancer, and a malignant fibrous histiocytoma;

(b) measuring a level of YKL-40 in said sample and comparing the sample YKL-40 level to the YKL-40 level in normal healthy humans wherein a sample YKL-40 level in excess of YKL-40 levels in normal healthy humans indicates a reduced survival expectancy compared to patients with normal YKL-40 level.

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50. (Once amended) The method of claim 47, wherein said cancer is selected from the group consisting of a breast cancer, a colon cancer, a lung cancer, and a prostate cancer.

REMARKS

Status.

Claims 1-18, 38, 39, and 47-62 are pending with entry of this amendment, claims 19-37, and 40-46 being cancelled herein. Claims 1 and 50 are amended herein. These amendments introduce no new matter, but merely make grammatical corrections.

Restriction/Election.

Applicants note that the restriction requirement is still deemed proper and. Accordingly, Applicants have canceled non-elected claims 19-37, and 40-46 with entry of this amendment. Please note, however, that Applicants reserve the right to file subsequent applications claiming the canceled subject matter and the claim cancellations should not be construed as abandonment or agreement with the Examiner's position in the Office Action.

Information Disclosure Statement.

The Examiner noted that references AT (Campbell (1991) *Monoclonal Antibodies and Immunosensor Technology. In Laboratory Techniques in Biochemistry and Molecular Biology*, 23: 1-114, Elsevier, N.Y.) and ABB (Johansen *et al.* (1992) *Plasma YKL-40 concentrations in patients with rheumatoid arthritis*, Abstract for Scientific Conference

published on or after July 12, 1992 in Davos, Switzerland) on the Information Disclosure Statement filed April 16, 1999 have not been considered because copies of these two references were not found in the file. Applicants enclose copies of these references herewith and request that they be considered and made of record in the present application.

Sequence Listing.

Applicants request entry of this amendment in adherence with 37 C.F.R. §§1.821 to 1.825. This amendment is accompanied by a floppy disk containing the sequences SEQ ID Nos: 1-4 in computer-readable form and a paper copy of the sequence information which has been printed from the floppy disk.

The information contained in the computer-readable disk was prepared through the use of the software program "PatentIn" and is identical to that of the paper copy.

If a telephone conference would expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (415) 217-6021.

Respectfully submitted,

Tom Hunter
Attorney for Applicant(s)
Reg. No. 38,498

Encl: 1) Change in correspondence address
2) Petition for 3 month extension of time.
3) References AT and ABB from IDS.

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APPENDIX I

CLAIMS PENDING IN 09/164,862 WITH ENTRY OF THIS AMENDMENT

1. (once amended) A method for estimating length of survival of a cancer patient, said method comprising:

(a) obtaining a biological sample from a cancer patient having at least a preliminary diagnosis of a cancer selected from the group consisting of a lung cancer, a bronchus cancer, a colorectal cancer, a prostate cancer, a breast cancer, a pancreas cancer, a stomach cancer, an ovarian cancer, a urinary bladder cancer, a brain or central nervous system cancer, a peripheral nervous system cancer, an esophageal cancer, a cervical cancer, a melanoma, a uterine or endometrial cancer, a cancer of the oral cavity or pharynx, a liver cancer, a kidney cancer, a biliary tract cancer, a small bowel or appendix cancer, a salivary gland cancer, a thyroid gland cancer, an [a] adrenal gland cancer, an osteosarcoma, a chondrosarcoma, a liposarcoma, a testes cancer, and a malignant fibrous histiocytoma;

(b) measuring a level of YKL-40 in said sample and comparing the sample YKL-40 level to the YKL-40 level in normal healthy humans wherein a sample YKL-40 level in excess of YKL-40 levels in normal healthy humans indicates a reduced survival expectancy compared to patients with normal YKL-40 level.

2. The method of claim 1, wherein said patient has a diagnosis of prostate cancer.

3. The method of claim 1, wherein said patient has a diagnosis of lung cancer.

4. The method of claim 1, wherein said patient has a diagnosis of a colorectal cancer.

5. The method of claim 4, wherein said patient is diagnosed with a Duke's stage A colorectal cancer.

6. The method of claim 4, wherein said patient is diagnosed with a Duke's stage B colorectal cancer.

7. The method of claim 4, wherein said patient is diagnosed with a Duke's stage C colorectal cancer.

8. The method of claim 4, wherein said patient is diagnosed with a Duke's stage D colorectal cancer.

9. The method of claim 1, wherein said biological sample is a primar tumor or a tissue affected by the cancer.

10. The method of claim 1, wherein said biological sample is a sample selected from the group consisting of whole blood, plasma, serum, synovial fluid, cerebrospinal fluid, bronchial lavage, ascites fluid, bone marrow aspirate, pleural effusion, urine, or tumor tissue.

11. The method of claim 1, wherein the level of YKL-40 is measured by immunohistochemical staining of cells comprising said biological sample.

12. The method of claim 11, wherein said cells are tumor tissue cells.

13. The method of claim 1, wherein the level of YKL-40 is measured using an immunoassay.

14. The method of claim 13, wherein said immunoassay is a competitive immunoassay.

15. The method of claim 13, wherein said immunoassay is an ELISA.

16. The method of claim 13, wherein said immunoassay is a radioimmunoassay (RIA).

17. The method of claim 13, wherein said immunoassay uses a polyclonal anti-YKL-40 antibody.

18. The method of claim 13, wherein said immunoassay uses a monoclonal anti-YKL-40 antibody.

38. A method to screen for recurrence of a cancer after removal of a primary tumor, said method comprising::

(a) obtaining a biological sample from a cancer patient following removal of a primary tumor; and

(b) measuring a level of YKL-40 in said sample and comparing the sample YKL-40 level to the YKL-40 level in normal healthy humans wherein a sample YKL-40 level in excess of YKL-40 levels in normal healthy humans indicates a possible recurrence of said cancer.

39. The method of claim 38, wherein said method is repeated at a multiplicity of instances after removal of said primary tumor.

47. A method of screening for a cancer, in a mammal, said method comprising:

(a) obtaining a biological sample from said mammal;

(b) measuring a level of YKL-40 in said sample and comparing the level to the YKL-40 level found in that of a normal healthy mammal, wherein a statistically significant difference in YKL-40 levels indicates the presence of a cancer.

48. The method of claim 47, wherein said biological sample is a tissue affected by the cancer.

49. The method of claim 47, wherein said biological sample is a sample of whole blood, plasma, serum, synovial fluid, cerebrospinal fluid, bronchial lavage, ascites fluid, bone marrow aspirate, pleural effusion, urine, or tumor tissue.

50. (Once amended) The method of claim 47, wherein said cancer is selected from the group consisting of a breast cancer, a colon cancer, a lung cancer, and a prostate cancer.

51. The method of claim 47, wherein said cancer is selected from the group consisting of a stomach cancer, a cervical cancer, and ovarian cancer, and a malignant melanoma.

52. The method of claim 50, wherein said cancer is a breast cancer.

53. The method of claim 50, wherein said cancer is a colon cancer.

54. The method of claim 50, wherein said cancer is a prostate cancer.

55. The method of claim 50, wherein said cancer is a lung cancer.

56. The method of claim 47, wherein said mammal is a human.

57. The method of claim 47, wherein the level of YKL-40 is measured using an immunoassay.

58. The method of claim 57, wherein said immunoassay is a competitive immunoassay.

59. The method of claim 57, wherein said immunoassay is an ELISA.

60. The method of claim 57, wherein said immunoassay is a radioimmunoassay (RIA).

61. The method of claim 57, wherein said immunoassay uses a polyclonal anti-YKL-40 antibody.

62. The method of claim 57, wherein said immunoassay uses a monoclonal anti-YKL-40 antibody.